

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29932 of 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Excise for the respondents.

The petitioner herein is the licensee of A4 shop bearing licence No.GSL.KD/160/2017-19 dated 01.07.2017. Consequent upon registration of Cr.No.32/2017 dated 21.08.2017 under Section 34(a) of the A.P.Excise Act, 1968 on the file of the Prohibition & Excise Station, Proddutur against one Sri Ghouse Peer, the Prohibition & Excise Superintendent, Proddutur issued a show cause notice bearing Rc.No.A/272/2017 dated 22.08.2017, calling upon the petitioner herein to show cause as to why appropriate action, for the alleged contravention of the A.P.Excise Act, 1968 and the A.P.Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2012, should not be taken. Questioning the said show cause notice, petitioner herein filed W.P.No.29016 of 2017. This Court, by way of an order dated 29.08.2017, disposed of the said Writ Petition, leaving it open for the petitioner to submit explanation to the impugned show cause notice within a period of two weeks from the said date with a further direction to the respondents to take further action and pass final orders after affording opportunity of

hearing to the petitioner herein and also directed that till passing of the final orders, the impugned order stands suspended.

It is submitted by the learned counsel for the petitioner that the said order of this Court was despatched on 04.09.2017. Now, by virtue of the order under challenge, the Prohibition & Excise Superintendent, Proddutur suspended the licence of the petitioner herein under Section 31 of the A.P.Excise Act, 1968.

It is contended by the learned counsel for the petitioner that this Court granted two weeks' time to the petitioner herein for filing explanation for consideration of the same by the respondents. The Prohibition & Excise Superintendent passed the impugned order, in a hurried manner, without giving any opportunity of hearing to the petitioner. It is further submitted by the learned counsel that the impugned order is liable to be suspended on the ground of non-stipulation of the period of suspension.

This Court, by way of an order dated 29.08.2017, granted two week's time to the petitioner herein to submit explanation to the show cause notice for consideration of the respondents and for passing final orders after giving opportunity of hearing to the petitioner herein. It is the submission of the learned counsel for the petitioner that the said order of this Court was despatched by this Court on 04.09.2017 and, in the meanwhile, the

Prohibition & Excise Superintendent, without waiting for the time granted by this Court, passed the order under challenge and the said action on the part of the Prohibition & Excise Superintendent is highly illegal and violative of the principles of natural justice.

The Prohibition & Excise Superintendent ought to have permitted the petitioner to file explanation within the time stipulated by this Court and ought to have afforded an opportunity of hearing to the petitioner herein. In the considered opinion of this Court, the said action on the part of the respondents is unsustainable and violative of the principles of natural justice.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the order impugned in Rc.No.A/272/2017 dated 31.08.2017 passed by the Prohibition & Excise Superintendent, Proddutur-third respondent herein and the matter is remitted to the third respondent for fresh consideration in accordance with law after giving opportunity of hearing to the petitioner herein. It is also made clear that it is open for the petitioner herein to submit explanation to the impugned show cause notice dated 31.08.2017 within a period of one week from the date of receipt of a copy of this order and thereafter it is open for the respondents to take further action as per law.

The Writ Petition is, accordingly, disposed of. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

05th September, 2017

Note:

*Furnish C.C. of the order
by 08.09.2017*

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